IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION No.2025 OF 2002

Between:

M.G. Nagaraju, S/o. Suryanarayana,
aged about 47 years, Grade - I Mechanic,

A.P.S.R.T.C., Nagarkurnool Depot,

Mahaboobnagar District. **..... PETITIONER**

AND

1. The Executive Director, A.P.S.R.T.C.,
   Imlibun Bus Station, Hyderabad.

2. The Regional Manager, A.P.S.R.T.C.,
   Mahaboobnagar.

3. The Depot Manager, A.P.S.R.T.C.,
   Nagarkurnool, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the action of the respondents in not fixing the seniority of the petitioner as Grade - I Mechanic w.e.f. the date of his joining in the A.P.S.R.T.C. i.e., from 24.10.1989 as per G.O. Ms. No.977, dated 30.09.1989, as illegal, arbitrary and violative of Articles 14 & 16 of the Constitution of India and grant all consequential benefits of promotion etc., by treating the seniority

of the petitioner from the date of his joining in the A.P.S.R.T.C. as Grade - I Mechanic.

Counsel for the Petitioner: Sri S. Satyanarayana Rao

Counsel for the Respondents: Sri P. Vinayaka Swamy,
S.C. for A.P.S.R.T.C.

The Court made the following :

ORDER:

This writ petition is filed seeking Writ of *Mandamus* to declare the action of the respondents in not fixing the seniority of the petitioner as Grade - I Mechanic with effect from the date of his joining in the A.P.S.R.T.C. i.e., from 24.10.1989 as per the G.O. Ms. No.977, dated 30.09.1989, as illegal, arbitrary and violative of Articles 14 & 16 of the Constitution of India and to direct the respondents to grant all consequential benefits of promotion etc., by treating the seniority of the petitioner from the date of his joining in the A.P.S.R.T.C. as Grade - I Mechanic.

The case of the petitioner is that originally he was appointed by the Executive Officer, Srisaila Devasthanam Transport, Srisailam, vide proceedings, dated 26-06-1976, as Cleaner and subsequently he was promoted as Grade – II Mechanic vide proceedings, dated 17-02-1978, and as
Grade – I Mechanic vide proceedings, dated 19-06-1987.
As there were some difficulties in maintaining the Srisaila Devasthanam Transport Wing, the same was merged with the A.P.S.R.T.C. (for short 'the Corporation') on 01-10-1989 in pursuance of the G.O. Ms. No.977, dated 30-09-1989, and accordingly all the employees of the said Transport Wing were transferred to the Corporation and the petitioner was also transferred and posted to Kurnool Region. The petitioner states that as per the said G.O., for fixing the seniority, the date of joining of the employee in the Corporation has to be taken into consideration, therefore his seniority has to be counted from 21-10-1989. It is the further case of the petitioner that most of the employees in various cadres were transferred to their nearest bus depots but the petitioner alone was posted to Yemmiganoor, Kurnool District though there are number of bus depots in the Mahabubnagar District. The petitioner states that from the date of his appointment in the Corporation he has been discharging duties with utmost satisfaction to the Corporation and that the respondents are showing discrimination in fixing the seniority by giving promotions to the junior

employees who were employed subsequent to him and though he made representation, dated 06-09-2001, the same was not considered and even the stagnation increment was also not sanctioned to him, hence this writ petition.

The respondents filed counter affidavit denying the allegations made by the petitioner stating that the petitioner has been absorbed in the Corporation as Grade – I Mechanic w.e.f. 21-10-1989 and posted to Kurnool Division and on foregoing seniority he was transferred and posted to Mahbubnagar Division on 27-10-1982, and therefore, his seniority in the psot of Mechanic shall be reckoned from the date when he reported to duty in Mahabubnagar Division i.e. 28-10-1992 and accordingly his seniority was fixed vide notification, dated 07-09-1995. It is denied that junior employees were given promotion on par with the senior employees. Further, it is stated that the petitioner having got himself transferred to Mahabubnagar Division at his own request on foregoing seniority and enjoyed the benefits thereof, he is estopped from claiming seniority from the date of his post at Kurnool Division and claim promotion on that basis as he is junior most employee in the Mahaboobnagar Division on his reporting to duty at Achampet Depot, Mahaboobnagar Division on 28-10-1992.

Learned counsel for the petitioner contends that the petitioner had joined in the Corporation on 24-10-1989 when the Transport Wing of Devasthanam was merged with the Corporation and therefore his seniority has to be fixed w.e.f. 24-10-1989 onwards, hence requests to allow the writ petition.

On the other hand, learned counsel for the respondents contends that after merging of the employees of Srisaila Devasthanam Transport Wing with the Corporation, the petitioner was posted to Kurnool Division on 21-10-1989, and on 28-10-1992, at his own request he was transferred to Mahabubnagar Division on foregoing seniority, therefore he became junior most employee in Mahabubnagar Division, as such, he was not given promotion, hence there are no grounds to interfere in the matter.

The petitioner was originally appointed as Cleaner by the proceedings of the Executive Officer of Srisaila Devasthanam Transport, Srisailam, dated 26-06-1976, and in the year 1978 he was given promotion as Grade – II Mechanic and in the year 1987 he was promoted as Grade – I Mechanic. By virtue of G.O. Ms. No.977, dated 30-09-1989, the Srisailam Devasthanam Transport Wing was taken over by the Corporation. As per Clause 9 of the said G.O., the

seniority of the transferred employees shall be counted in the respective cadres of the Corporation from the date of their joining in the Corporation and their past service rendered in the Devasthanam will not be reckoned in the Corporation for the purpose of seniority. The above provision makes it clear that for fixing the seniority of an employee of the Corporation, the date of his joining in the Corporation shall be taken as date of seniority. The said G.O. is not under challenge.

In pursuance of the said G.O., for fixation of the seniority of the petitioner, the date of his joining in the Corporation i.e. 24-10-1989, when he was reported to duty at Kurnool Division as Grade – I Mechanic, has to be taken into consideration. Now the contention of the learned counsel for the petitioner is that the posting of the petitioner to Kurnool Division, which is not his native place, is not made at his request, therefore his seniority in the category of Grade – I Mechanic has to be counted from the date of his joining in the Corporation i.e. on 24-10-1989.

I find no force in the contention of the learned counsel for the petitioner for the reason that the petitioner accepted the office order, dated 21-10-1989, without any objection and got transferred to Mahabubnagar region on his own request on foregoing seniority. The petitioner having kept quite for all these years, now cannot turn down and contend that he should be allowed as Grade – I Mechanic in the Mahaboobnagar region, which is his native place from the date of his initial appointment in the Corporation.

Further, it is brought to the notice of this Court by the learned counsel for the petitioner that even the Corporation has not granted stagnation increment to the petitioner introduced by them. Learned counsel for the respondents contends that since the petitioner has not completed the required number of years service in a particular region, he is not eligible for grant of stagnation increment. The contention of the learned counsel for the respondents cannot be accepted for the reason that the whole service rendered in respondents' by the petitioner has to be taken into consideration for grant of stagnation increment but not region wise service. Therefore, the petitioner is entitled for stagnation increment, if he is otherwise ineligible as per the instructions of the Corporation.

Accordingly, the Writ Petition is disposed of directing the respondents to

grant stagnation increment to the petitioner considering his total service in the Corporation i.e. from the date of his joining in the Corporation, i.e., 24-10-1989, within a period of two months from the date of receipt of the copy of this order. No order as to costs.

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K.C. BHANU, J

Date: 05-07-2005.

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To

1. The Executive Director, A.P.S.R.T.C.,
   Imlibun Bus Station, Hyderabad.
2. The Regional Manager, A.P.S.R.T.C.,
   Mahaboobnagar.
3. The Depot Manager, A.P.S.R.T.C.,
   Nagarkurnool, Mahaboobnagar District.

4. Two C.D. copies.